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FINANCING OF THE INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF THE FORMER YUGOSLAVIA SINCE 1991

Report of the Fifth Committee (Part II)

Rapporteur: Mr. Larbi DJACTA (Algeria)

I. INTRODUCTION

1. The previous recommendations made by the Fifth Committee to the General Assembly under agenda item 146 appear in the report of the Committee contained in document A/49/810.

2. The Fifth Committee considered the item at its 45th, 46th, 51st and 53rd meetings, on 16, 17, 30 and 31 March 1995. Statements and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary records (A/C.5/49/SR.45, 46, 51 and 53).

3. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/C.5/49/42) and the report of the Advisory Committee on Administrative and Budgetary Questions (A/49/7/Add.12).

II. CONSIDERATION OF PROPOSALS

4. At the 51st meeting, on 30 March, the representative of New Zealand, on behalf of Canada and New Zealand, introduced a draft resolution entitled "Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991" (A/C.5/49/L.44), which read:

The General Assembly,

Recalling its resolutions 47/235 of 14 September 1993 and 48/251 of 14 April 1994,

Also recalling its decision 49/471 of 23 December 1994, by which it authorized the Secretary-General to enter into commitments in the additional amount of 7 million United States dollars to allow the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 to continue its activities until 31 March 1995, without prejudice to any decisions that the Assembly might take with regard to budgetary and administrative matters and to the mode of financing,

Affirming that the International Tribunal must be assured of secure and stable financing so that it may fulfil its role in full and effectively,

Having considered the report of the Secretary-General 1/ on the financing of the International Tribunal and the related report of the Advisory Committee on Administrative and Budgetary Questions,

1. Endorses the observations and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions, 2/ subject to the provisions of the present resolution;

2. Decides, subject to the completion of the reclassification process, to approve the three posts of senior investigators to undertake substantive high-level investigations and to oversee the nine investigation teams in the Office of the Prosecutor, pending a further review of the question by the Advisory Committee in the context of estimates for the International Tribunal for 1996-1997;

3. Requests the Secretary-General to review the staffing requirements of the electronic support services and communications in the Registry to ensure that its organizational structure is commensurate with the tasks to be performed;

4. Reaffirms that questions related to the rules of procedure and evidence of the International Tribunal are matters to be decided by the International Tribunal;

5. Requests the Secretary-General to provide, in the context of the next budget presentation for the International Tribunal, additional information on the costs of ensuring free legal assistance, as outlined in paragraph 30 of the report of the Advisory Committee; 2/

1/ A/C.5/49/42.

2/ A/49/7/Add.12.

6. Also requests the Secretary-General to include in the context of the next presentation for the International Tribunal information and/or proposals for the long-term requirements for the carrying out of sentences and for the protection of witnesses;

7. Requests the International Tribunal and the International Court of Justice to continue negotiations on common administrative arrangements with the aim of obtaining economies in administrative services;

8. Also requests the International Tribunal to establish guidelines to govern recourse to and use of expertise in the Chambers;

9. Notes that the estimated requirements for payment to the host Government for detention facilities for the accused reflect actual fixed and estimated variable costs in 1994-1995;

10. Emphasizes the importance of ensuring that recruitment for the International Tribunal be implemented strictly in accordance with the Staff Regulations and Rules of the United Nations, taking account of Articles 8, 100 and 101 of the Charter of the United Nations, and that, in recruiting consultants and experts, the International Tribunal should avail itself of sources of expertise on as wide a geographical basis as possible;

11. Expresses its appreciation to the Governments and others that have provided voluntary contributions to the International Tribunal;

12. Invites Member States and others to make further voluntary contributions to the International Tribunal that are acceptable to the Secretary-General;

13. Requests the Secretary-General to issue specific guidelines on the requirements for receipt of contributions and application of funds for the International Tribunal;

14. Also requests the Secretary-General to include in future budget presentations for the International Tribunal information on voluntary contributions in cash and in kind and to indicate where they are assigned;

15. Reaffirms that the acceptance of voluntary contributions in kind or in personnel, as well as voluntary financial contributions, must be consistent with the need to ensure the impartiality and independence of the International Tribunal at all times and that such contributions should be considered supplementary to the assessed contributions;

16. Requests the Secretary-General to include detailed information in his next report on the International Tribunal on the acceptance and use of voluntary contributions, particularly those in kind or in personnel, pursuant to paragraph 15 above;

17. Reaffirms the role of the General Assembly, as set out in Article 17 of the Charter, as the organ to consider and approve the budget of the Organization and the apportionment of its expenses among Member States;

18. Again expresses its concern that advice given to the Security Council by the Secretariat on the nature of the financing of the International Tribunal did not respect the role of the General Assembly as set out in Article 17 of the Charter;

19. Recognizes the importance of the International Tribunal and the necessity of providing additional resources in order to allow full implementation of the Organization's existing programmes and mandated activities;

20. Reaffirms that the expenses of the International Tribunal should be met through assessed contributions;

21. Decides to maintain the special account for the International Tribunal referred to in General Assembly resolution 47/235 and to finance its activities through additional resources;

22. Also decides to appropriate to the special account a total amount of 43,991,600 United States dollars gross (39,095,900 dollars net) for the period from 1 January 1994 to 31 December 1995, inclusive of the commitment authority of 18 million dollars authorized under the provisions of General Assembly resolutions 48/251 and 49/471 and the amount of 276,200 dollars expended in 1993;

23. Further decides, as an ad hoc and exceptional arrangement, to apportion the amount of 43,991,600 dollars gross (39,095,900 net) for the period from 1 January 1994 to 31 December 1995 among the Member States in accordance with paragraph 2 of General Assembly resolution 49/19 B of 23 December 1994;

24. Decides to maintain the same arrangements for financing the expenses of the International Tribunal for the 1996-1997 biennium and to consider at its fifty-second session the mode of financing of the Tribunal's financial requirements for subsequent periods;

25. Also decides that, in accordance with the provisions of its resolution 973 (X) of 15 December 1955, there shall be set off against the apportionment among Member States, as provided for in paragraph 23 above, their respective share in the Tax Equalization Fund of the estimated staff assessment income of 4,895,700 dollars approved for the International Tribunal for the period from 1 January 1994 to 31 December 1995;

26. Requests the Secretary-General to administer these resources with a maximum of economy and efficiency and, with respect to the appropriation referred to in paragraph 22 above, requests the Secretary-General to consider whether any portion of the expenses of the International Tribunal for that period could be absorbed from possible savings from the 1994-1995 programme budget without in any way causing a negative effect on programme delivery, and to report thereon to the General Assembly by 30 September 1995;

27. Also requests the Secretary-General to submit estimates for the requirements of the International Tribunal for 1996-1997 by 30 September 1995;

28. Decides, with reference to General Assembly resolution 41/213, that this resolution does not constitute a precedent for decisions on financial matters;

29. Also decides to include in the provisional agenda of its fiftieth session the item entitled "Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991".

5. At the 53rd meeting, on 31 March, statements were made by the representatives of Austria, New Zealand, the Philippines (on behalf of the Group of 77 and China), Cuba and Morocco, and by the Chairman of the Committee.

6. At the same meeting, on the proposal of the Chairman, the Committee decided to postpone to a later meeting the consideration of draft resolution A/C.5/49/L.44.

7. Also at the same meeting, the Committee adopted a draft decision orally proposed by the Chairman (see para. 8).

III. RECOMMENDATION OF THE FIFTH COMMITTEE

8. The Fifth Committee recommends to the General Assembly the adoption of the following draft decision:

Financing of the International Tribunal for the Prosecution of of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

The General Assembly decides to authorize the Secretary-General to enter into commitments in the additional amount of one million and eighty thousand dollars for the period from 1 to 14 April 1995 to allow the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 to continue its activities until 14 April 1995, without prejudice to any decisions that the Assembly may take with regard to the mode of financing of the Tribunal.